



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: G.L. Pollon et al. Attorney Docket No. LAMA116222
Application No.: 09/677,495 Group Art Unit: 3711
Filed: October 4, 2000 Examiner: M.S. Graham
Title: APPARATUS FOR SUPPORTING SPORT PRACTICE TARGETS

APPLICANTS' REPLY BRIEF

Seattle, Washington 98101
March 21, 2003

TO THE COMMISSIONER FOR PATENTS:

Responsive to the Examiner's Answer mailed January 21, 2003, applicants respectfully submit this Reply Brief.

Applicants have carefully considered the Examiner's Answer and respectfully maintain that the Examiner's conclusion of obviousness is, in fact, based upon improper hindsight reasoning using the Lacoste and Thumann references which are nonanalogous art.

On page 4 of the Answering Brief, the Examiner cites passages from Dubose relating to rolling up the golf practice screen for storage. The Examiner uses those passages as a bridge to a "storage problem" in order to import storage solutions from Lacoste and Thumann. It is that final step with which applicants take issue.

The disclosures of Lacoste and Thumann are nonanalogous art because they are neither in the field of applicants' endeavor, nor are they reasonably pertinent to the particular problem with which the applicants were concerned. The Examiner's error turns on the definition of the "problem" faced by the applicants. The problem faced by the applicants, as discussed in the Background on pages 1-2 of the application, is the time it takes to suspend a target screen and

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then remove it. Prior art targets, as exemplified by Dubose, are suspended by grommets tied into place.

The Examiner does not contend that Lacoste and Thumann are in the field of applicants' endeavor because, indeed, they are not. Dubose's golf practice screen belongs to the sports practice target art. The practice screen disclosed by Dubose is not used to sealingly screen an open doorway or garage doorway. In fact, it is intended to be hung loose so that it can absorb the energy of oncoming balls. For convenience, the loosely suspended target may be hung from the eaves above a garage door, but the target is not the same as a screen door, nor is it similar to a screen that is used to seal and close off a door opening. A door screen, as provided by Lacoste or Thumann, is held close and tight to the frame of the opening to screen out bugs, insects, etc.

This raises the question: Is that really a distinction? The answer is "yes," because the differences in purpose and indeed reason for existence of sports practice targets and screen doors are substantial.

The "problem" faced by the applicants of the present invention is how to conveniently erect and later store a sports practice target screen. Previously, the prior art taught, and in fact extolled the virtues of, convenient storage by simply removing the screen from the frame and rolling it up loosely. This is evident in the disclosure of Dubose. These prior art sports practice screens were intended to be removed from the framework from which they were hung. Applicants' invention, however, overcame the problems of having to unroll and reattach the screen each time use of the screen is desired. Applicants devised a way in which a sports practice screen is retractably stored within a container having a mounting adapted for mounting to a support structure.

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A person having ordinary skill in the art of sports practice target design would not consider fastening targets directly onto a door or using the target to tightly close off the opening of a doorway. Consequently, one having ordinary skill in the art of sports practice target design would not readily turn to the screen door art for solutions to problems faced in the sports practice targets art.

The fact that the golf practice screen disclosed by Dubose can be removed from its framework and rolled up for storage does not provide a proper bridge to the screen door art that the Examiner has taken to make a case of obviousness.

In the case *In re Oetiker*, cited by the Examiner, the Board held that a Lauro reference, "although not 'within the applicants' specific field of endeavor,' is nonetheless 'analogous art' because it relates to a hooking problem, as does Oetiker's invention." See *In re Oetiker*, 977 F.2d 1443, 24 U.S.P.Q.2d 1443, 1445 (Fed. Cir. 1992). As described by the Federal Circuit, the Board apparently reasoned that all hooking problems are analogous. The Federal Circuit dismissed that notion. Likewise, applicants in the present case urge the Board to recognize that not all screens and problems with storing screens are analogous. The spark of invention in the present application is that the *sports practice target* of the present invention is adapted to have a retracted position within a container having a mounting adapted for mounting to a support structure. This is not disclosed, taught, nor suggested by Dubose, nor does Dubose provide reason or suggestion to take his target and combine it with technology in the area of screen doors to provide the present invention. The Examiner's recognition of the problem--and the solution--provided by the present inventors come from the inventors' disclosure itself. While the inventors' invention may appear to be simple, "simplicity is not inimical to patentability." *In re Oetiker*, 24 U.S.P.Q.2d at 1446.

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For the foregoing reasons, the references cited by the Examiner, namely Dubose, Lacoste, and Thumann, are not properly combinable. The references, residing in their respective art areas, would not cause a person of ordinary skill in the art of sport practice targets to derive the combination of structures shown in the present invention, other than based on hindsight knowledge of the present application. Accordingly, the rejection of the claims should be withdrawn. Applicants' respectfully request action to that effect.

Respectfully submitted,

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Date: March 21, 2003

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